

In re Patent Application of:
ROY
Serial No. 10/789,452
Filing Date: February 27, 2004

REMARKS

Claims 1-6, 8-16, 18-28, 30-41, 43-47 and 49-51 remain in this application. Claims 7, 17, 23, 29, 42, 48 and 52 have been cancelled. No claims have been amended. Claims 1, 8, 11, 18, 21, 30, 35 and 43 have been previously presented.

Applicant thanks the Examiner for the detailed study of the application and prior art.

In the last Amendment Applicant had amended claims to place this case in condition for allowance.

In this new Amendment, the Examiner has again cited U.S. Patent 7,123,065 to Watt and has applied newly cited U.S. Patent No. 7,139,917 to Jablon and argues that the previously amended claims are obvious over Watt and Jablon, or Watt, Jablon and U.S. Patent No. 7,251,254 to Bond et al. (hereinafter "Bond"), or Watt, Jablon and the previously cited U.S. Patent Publication No. 2001/0032254 to Fodor.

The claimed system and method as previously presented in the last Amendment is directed to a communication system. A database stores problem magnitude relating to failed attempts at accessing servers using connection engines. An intelligent routing engine is operative with the database for querying the database and delaying any further attempts at accessing the server when the problem magnitude as a preset rate of decay exceeds a predetermined threshold. A problem magnitude is assigned for an error based on failures unrelated to a network failure.

In the examples of the dependent claims, the intelligent routing engine can delay any reattempts at accessing

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a server until a problematic magnitude returns to below a predetermined threshold. Any delay in reattempting access to the server is a function of a preset rate of decay of a problem magnitude. In what the Examiner considers allowable, the database includes data relating to a current problem magnitude for a failed access to a server that is added to a current exponentially decayed entry in the database.

An example embodiment of the claimed system may be used to distinguish between permanent or persistent transient failures and accessing a server such as on the internet from a client, for example, using a mobile wireless communications device. This could occur when a server consistently blocks access and an intermittent or transient failure is caused by other reasons. If it were possible to monitor every mail server or other internet server to be accessed, it would be possible to blacklist the particular server or devise a different connection engine route for a particular server. An example embodiment of the claimed system and method may provide a decision that can automatically be made to determine when any reattempts should be made at accessing a server and whether a set period of time should be allowed to pass before reattempting access, or if a different connection engine should be used to initiate communication.

Applicant contends the claims as previously presented and described above are patentable over Watt, Jablon and the other references.

FIG. 6A as the flowchart in Watt shows that a database is queried, but further attempts at accessing the server are delayed. The flowchart in FIG. 6A discloses a system in Watt

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that verifies a number of restarts that do not exceed a maximum per time interval such that if the limit is exceeded, a retry is made with a back-up failure mode or the server is rebooted.

As explained in its Abstract and Summary sections, Watt includes a management tool that streamlines a server allocation and provisioning process within a data center when a corporation operates a data center to provide applications and services for its customer end uses and internal operations. The provisioning process for a traditional server involves installing and configuring software on the storage devices of the server. Watt has a dynamic server allocation and allows provisioning such that a large number of servers can be installed with the server provisioning allocated into two separate tasks.

As noted in the Summary of the Invention section in column 2 and explained in greater detail in columns 8-10, a bootable system image is generated complete with network address assignments. The allocation process is accomplished using a switching mechanism that can match each server with an appropriate system image based upon the current configuration or requirements of the data center. Watt accomplishes this through the storage element for storing server images and a load manager that assigns one of the server images to each of the servers. Each server accesses only those portions of the image needed at any point in time and can incrementally load additional portions of the image on an as-needed basis. The server monitor receives a periodic heartbeat and load measurement signals from the servers in the data center via a communications network. Thus, the load manager can allocate and provision servers upon

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detecting failures as the lack of heartbeat signals from a particular server in the data center. This allows a load manager to allocate and provision servers according to predetermined criteria in response to the a load measurement signals received from the servers.

The system as explained in Watt relative to FIG. 6A is directed to the number of restarts, but is not directed to intelligent routing and database for storing problem magnitudes and delaying further attempts when a problem magnitude as a preset rate of decay exceeds a predetermined threshold as claimed in the instant application.

The newly cited Jablon discloses a system that reduces the threat of a server-based attack using a password. Jablon's background section in column 2 starting at line 43 notes that in each of a weaker or strong attack model, the servers can defend themselves from unconstrained online attacks by enforcing limits on the number of allowable invalid access attempts (such as through repetitive password attempts). Jablon is specifically directed to computer security and preventing multiple password attempts by hackers, for example.

One skilled in the art would not be motivated to combine the management tool of Watt with the security system of Jablon. The Examiner misinterprets an embodiment of Jablon that includes a feature to help servers account for legitimate mistakes in password entry as the problem magnitude is assigned an error based on failures unrelated to a network failure. Applicant notes that in the system and method of the instant application, failures unrelated to a network failure could

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include an incorrect password and/or poorly formed request. This is not the feature of Jablon, which prevents multiple password attacks and distinguishes between legitimate mistakes made in a password entry. In Jablon, this is accomplished by having a client send evidence of known prior mistakes made by that user during each successful run of the protocol, such as explained in Jablon at column 20 starting at line 35. This allows a tight constraint.

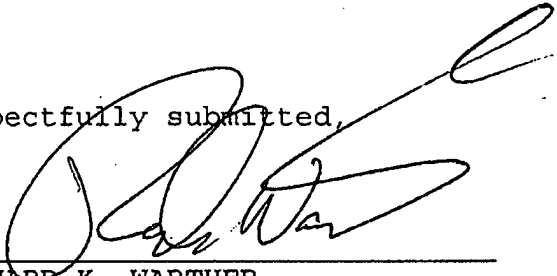
This is not the claimed system and method presented in this application and in the last Amendment to place this case in condition for allowance.

Fodor shows POP, IMAP or HTTP mail protocol with a WAP or SMTP used in the load balancing scheme. Bond is directed to a voice-over-internet protocol (VoIP) system that includes two-way, three-way and conference calling between two or more parties in which the VoIP system is implemented in a Session Initiation Protocol (SIP) framework. It includes a distributed feature composition (DFC) architecture that overcomes the limitations of existing VoIP frameworks. Fodor manages mail messages where the mail processing and storage is distributed between multiple mail servers or domains rather than sending mail messages to one primary email server until an over-capacity problem exists as explained in its Summary of the Invention section. Fodor is also directed to load distribution and is not directed to the claimed system and method. One skilled in the art would not be motivated to combine one or more of these references and form the claimed system and method as presented in this response.

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Applicant contends that the present case is in condition for allowance and respectfully requests that the Examiner issue a Notice of Allowance and Issue Fee Due. If the Examiner has any questions or suggestions for placing this case in condition for allowance, the undersigned attorney would appreciate a telephone call.

Respectfully submitted,



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